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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

ADAM IAN COWLEY,  
  
Plaintiff,

vs.

DEPUTY SYNTHES, INC.; DEPUY SYNTHES  
SALES, INC.; CHAD ARTHURS; DOES I-X;  
and ROE CORPORATIONS I-X, inclusive,  
  
Defendants.

CASE NO.: 2:21-cv-00129-KJD-VCF

**STIPULATION AND ORDER TO**  
**CONTINUE DISCOVERY DEADLINES**  
***(First Request)***

Plaintiff by and through his counsel MATTHEW D. MINUCCI, ESQ., of THE COTTLE FIRM, and Defendant DEPUY SYNTHES SALES, INC. (“DePuy”) by and through his counsel ROBERT MCCOY, ESQ., of KAEMPFER CROWELL hereby stipulate and agree, pursuant to LR 26-3, to vacate and extend the current discovery deadlines set forth in the Discovery Plan and Scheduling Order filed on July February 17, 2021 (Document #18).

**A. DISCOVERY COMPLETED TO DATE:**

1. Defendant served his Initial Disclosures on March 4, 2021.
2. Plaintiff served his Initial Disclosures on March 5, 2021.
3. Defendants served their First Set of Requests for Production of Documents to Plaintiff on March 17, 2021.

- 1 4. Defendants served their First Set of Interrogatories to Plaintiff on March 17, 2021.
- 2 5. Plaintiff served his First Set of Requests for Admissions to Defendant on April 22, 2021.
- 3 6. Plaintiff served his First Set of Interrogatories to Defendant on April 22, 2021.
- 4 7. Plaintiff served his First Set of Requests for Production of Documents to Defendant on April
- 5 22, 2021.
- 6 8. Plaintiff served his Second Set of Requests for Production of Documents to Defendant on
- 7 April 26, 2021.
- 8 9. Plaintiff served his Responses to Defendant's First Set of Requests for Production of
- 9 Documents on April 28, 2021.
- 10 10. Plaintiff served his Responses to Defendant's First Set of Interrogatories on April 28, 2021.
- 11 11. Plaintiff served his First Supplemental Disclosures on May 28, 2021.
- 12 12. Defendants served their Responses to Plaintiff's First Set of Requests for Admissions on June
- 13 22, 2021.
- 14 13. Defendants served their Responses to Plaintiff's First Set of Interrogatories on June 22, 2021.
- 15 14. Defendants served their Responses to Plaintiff's First Set of Requests for Production of
- 16 Documents on June 22, 2021.
- 17 15. Defendants served their Responses to Plaintiff's Second Set of Requests for Production of
- 18 Documents on June 22, 2021.
- 19 16. Defendants served their First Supplemental Disclosures on June 22, 2021.
- 20 17. The Parties have engaged in preliminary expert review.

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**B. DESCRIPTION OF DISCOVERY THAT REMAINS TO BE COMPLETED:**

1. Plaintiff intends to take the deposition of Defendants FRCP 30(b)(6) witness.
2. Defendants intend to take the deposition of Plaintiff.
3. Defendants intend to take the deposition of Plaintiff's wife.
4. Defendants intend to take the depositions of Plaintiff's implanting surgeon and other relevant treaters.
5. The parties may take expert depositions.

**C. REASON WHY DISCOVERY WAS NOT COMPLETED:**

The Parties have retained experts and have preliminary opinions related to liability and damages. However, significant unforeseen issues have arisen during the discovery, which warrant the requested extension. From a liability / product-defect standpoint, there are multiple failed plates which require destructive testing. Given residual issues relating to Covid restrictions across the states, the Parties are still working to co-ordinate all product experts' abilities to meet and perform destructive testing within agreed upon parameters. Second, the Plaintiff has had an amputation at the shoulder, which is the ultimate alleged result of damages sustained in this matter. However, Plaintiff has had unrelated gastric-bypass surgery which has had certain complications, including the growth of superfluous benign tumors/flesh at the site of the amputation. This, combined with substantial weight-loss, has caused it to be medically impossible to fit him for a prosthetic arm. Furthermore, the medical experts are unable to opine to a reasonable degree of medical probability as to Plaintiff's needs for future medical care related to the prosthetic, until these tumors can be removed and the weight loss has tapered off. The parties expect this will be able to be accomplished within the time frames set forth herein in the requested extension. The parties submit these reasons constitute good cause under LR 26-3 for the extension.

1 The parties do not bring this stipulation for purpose of delay.

2 **D. PROPOSED SCHEDULE FOR COMPLETING REMAINING DISCOVERY:**

3 1. Discovery Cut-Off Date: **June 11, 2022.**

4 2. Amending the Pleadings and Adding parties: **October 11, 2021.**

5 The parties are not seeking to extend this date.

6 3. FRCP 26(a)(2) Disclosure of Initial Experts:

- 7 • Plaintiff's Initial Expert Disclosures: **January 10, 2022**
- 8 • Defendant's Initial Expert Disclosure: **February 15, 2022**
- 9 • The Parties shall have until **April 17, 2022** to complete any depositions of any
- 10 initial experts.
- 11 • The Parties shall have until the proposed discovery cut-off date to complete
- 12 any depositions of rebuttal experts.
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16 4. FRCP 26(a)(2) Disclosures of Rebuttal Experts: **May 21, 2022**

17 5. Dispositive Motions: **July 14, 2022.**

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6. Pre-Trial Order / Pre-Trial Disclosures: **August 13, 2022.**

If dispositive motions are filed, the deadline for filing the joint pretrial order will be suspended until 30 days after decision on the dispositive motions or further court order.

This Stipulation is made in good faith and not for the purpose of delay.

DATED this 2<sup>nd</sup> day of August, 2021.

**THE COTTLE FIRM**

**KAEMPFER CROWELL**

By: /s/ Matthew D. Minucci

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*Attorneys for Defendants*

**IT IS SO ORDERED.**



UNITED STATES MAGISTRATE JUDGE

DATED: 8-2-2021

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